

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

KATHY GUERRA, Derivatively on behalf of EXCO
RESOURCES, INC.,

Plaintiff,

v.

DOUGLAS H. MILLER, STEPHEN F. SMITH, JEFFREY
D. BENJAMIN, VINCENT J. CEBULA, EARL E. ELLIS, B.
JAMES FORD, MARK MULHERN, T. BOONE PICKENS,
JEFFREY S. SEROTA and ROBERT L. STILLWELL,

Defendants,

and

EXCO RESOURCES, INC., a Texas Corporation,

Nominal Defendant.

Case Number 3-10CV2385-0

**AGREED MOTION FOR VOLUNTARY
DISMISSAL WITHOUT PREJUDICE**

Pursuant to the provisions of Federal Rule of Civil Procedure 41(a)(2), Plaintiff Kathy Guerra moves this Court voluntarily to dismiss this action, in its entirety, without prejudice, all parties to bear their own costs. Defendants agree to this Motion.

No opposing party has served an answer, a counterclaim, a cross-claim, or a motion for summary judgment in this action. Plaintiff has not previously dismissed any federal or state court action based on or including the same claims as she asserted in this action against these defendants.

Plaintiff has not settled or compromised her derivative claims on behalf of EXCO Resources, Inc. ("EXCO"). Plaintiff received neither any offer of settlement nor any

consideration for dismissing her derivative claims on EXCO's behalf. No benefit or advantage is lost to EXCO as a result of this voluntary dismissal without prejudice, and the dismissal is not a product of collusion between Plaintiff and any other party. Rather, circumstances have occurred that Plaintiff concedes may render her claims moot. Defendants contend that Plaintiff's claims are moot.

For the foregoing reasons, Plaintiff respectfully requests that this Court enter the accompanying proposed Agreed Order, dismissing this case, without prejudice, all parties to bear their own costs.

Dated: August 9, 2011

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/s Roger F. Claxton

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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of August, 2011, I electronically filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this notice as service of this document by electronic means:

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